

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4410 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HIMATSING RAMSINH RATHOD

Versus

STATE OF GUJARAT

Appearance:

MR MB FAROOQUI for the Petitioner
MR NIGAM SHUKLA for the Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/08/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The petitioner, a police constable, filed this Special Civil Application before this Court challenging thereunder the order of the respondent rejecting the revision application of the petitioner in the matter of disciplinary proceedings on the ground of limitation. After holding inquiry the petitioner was ordered to be dismissed from the Government service. The matter was

taken up by him in the appeal, but appeal has also been dismissed. Then he filed the revision application which has been dismissed under the impugned order dated 21st January, 1983. The appeal filed by the petitioner against the order of dismissal was dismissed. Then the petitioner filed a revision application before the respondent on 10th March, 1981. The revision application has admittedly been not filed in time. The memo of revision application has not been filed and in the absence of the same, it is difficult to say that what ground has been given there in condonation of delay in filing of revision application. Even in the writ petition, the petitioner has not given out the sufficient cause for the delay in filing of the revision application. In view of this fact, I do not find any illegality in the order of the disciplinary authority. The petitioner has to make out a case for sufficient cause. The petitioner has to satisfy to the concerned authority that there was sufficient cause for not filing the application in time and in case where he has not given any cause whatsoever then the revisional authority has not committed any error in dismissing the same.

2. The learned counsel for the petitioner prays for sympathetic consideration of the case on the question of quantum of punishment. I do not find it to be a case which warrants any interference of this Court with the punishment given to the petitioner. There are serious charges against the petitioner and on proof of the same, the minimum penalty should have been dismissal and as such, it cannot be said to be a case where any lenient view should have been taken. Moreover, this Court in the matter of penalty given in the disciplinary proceedings on proved misconduct, has a very limited power of judicial review. If the penalty given to the delinquent employee is found to be shocking to the judicious conscience of this court then only the interference therein may be made, and not otherwise. As stated earlier, it is not the case of that category. Lastly, the counsel for the petitioner contended that he may be given an opportunity of making representation to the respondent. I fail to see any justification in this prayer. These are the proceedings under the rules under Article 309 where sufficient remedy has been provided, and as such, no further indulgence can be granted to make a representation. In such matters, the remedy as it is provided under the relevant rules can only be resorted to and this Court sitting under Article 226 or 227 of Constitution of India will not give the petitioner one more remedy which is not provided under the rules. Any such directions given then the same will be contrary to

the provisions of the disciplinary rules.

3. In the result, this Special Civil Application fails and the same is dismissed.

zgs/-